

**Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
May 15, 2007 (9:00 a.m.)**

The Board for Contractors convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Troy Smith Jr., Board member, presided. No other Board members were present.

Joseph Haughwout, Jr. and Jesstina Adelman appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc = Disciplinary Case
Lic = Licensing Application
RF = Recovery Fund Claim

C = Complainant/Claimant
A = Applicant
R = Respondent/Regulant
W = Witness
Atty = Attorney

Participants

- | | |
|---|--|
| 1. Sunrise Builders & Renovectors Inc
File Number 2007-01259 (Disc) | Earl Opie – C
Julia Opie – C |
| 2. Ian Baptiste
t/a IRB Plumbing/Remodeling
File Number 2006-00421 (Disc)
(NO DECISION MADE) | Baptiste – R
Charles Field – C
Jerry Hutto – W
(by phone) |
| 3. J S Young Construction Group Inc
File Number 2007-00591 (Disc) | William Driskill - C |
| 4. J S Young Construction Group Inc
File Number 2007-00958 (Disc) | None |
| 5. J S Young Construction Group Inc
File Number 2007-01303 (Disc) | None |
| 6. Hearth & Home Technologies Inc.
t/a Fireside Hearth & Home
File Number 2006-01423 (Disc) | None |

The meeting adjourned at 1:40 p.m.

BOARD FOR CONTRACTORS

Mark D. Kinser, Chairman

Jay DeBoer, Secretary

COPY TESTE:

Custodian of Records

DRAFT

**IN THE
COMMONWEALTH OF VIRGINIA
BOARD FOR CONTRACTORS**

Re: Sunrise Builders and Renovectors, Inc.

File Number: 2007-01259
License Number: 2705105519

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On April 5, 2007, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Sunrise Builders and Renovectors, Inc. ("Sunrise") to the address of record. The certified mail was returned by the United States Postal Service, marked "Not Deliverable as Addressed, Unable to Forward." The Notice was also mailed, via certified mail, to Sunrise at 106 Deep Creek Road Newport News, Virginia 23606. The certified mail was returned by the United States Postal Service, marked "Unclaimed."

The Notices included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter.

On May 15, 2007, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation ("the Department").

The following individuals participated at the IFF: Earl and Julia Opie ("the Opies"), Complainants; Joseph Haughwout and Jesstina Adelman, Staff Members; and Troy Smith, Jr. Presiding Board Member. Neither Sunrise, Respondent, nor anyone on its behalf appeared at the IFF.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the Report of Findings:

In August 2006, Sunrise entered into a contract with the Opies, in the amount of \$19,125.00, to perform remodeling work at the subject property in Charles City, Virginia.

Count 1: Board Regulation

The contract used by Sunrise in the transaction failed to contain subsections a., d., e., f., and h. These subsections contain vital information to the contract.

Sunrise became licensed on May 15, 2006, as a Class C Contractor; thus, it should have known what its contract require. Sunrise's failure to include the minimum provisions in its contract is a violation of Board Regulation 18 VAC 50-22-260.B.9. Therefore, I recommend a monetary penalty of \$500.00 be imposed.

Count 2: Board Regulation

Sunrise is a Class C contractor and, accordingly, is prohibited by the Board's regulations from offering and entering into a contract of \$7,500.00 or greater. Despite this, Sunrise entered into a \$19,125.00 contract. In addition, Sunrise was paid \$15,000.00 toward the contract.

Sunrise entered into a contract that exceeded its Class C contractor's license monetary limit by \$11,626.00. By doing so, Sunrise disregarded the Board's authority and performed work on a job it lacked the experience and verified financial stability to perform. During the IFF, the Opies testified to numerous construction defects and improper construction practices. Sunrise's actions are egregious and jeopardized the Opies' physical safety.

During the IFF, Julia Opie testified that no permit was obtained, had to go to the court herself to obtain a permit, and was fined because work had begun on the property before a permit was obtained.

Sunrise's actions constitute a violation of Board Regulation 18 VAC 50-22-260.B.27. Therefore, I recommend a monetary penalty of \$1,500.00 and license revocation be imposed.

Count 3: Board Regulation

Sunrise began work on August 4, 2006, which was the same day the contract was agreed. The final day work was performed by Sunrise was August 30, 2006. Over the next few weeks, the Opies left daily phone messages to Sunrise in an attempt to get it to complete the work. Although Sunrise made promises to return, it never did. The Opies also mailed certified correspondence to Sunrise, but it was returned unclaimed.

Sunrise failed to complete numerous items. The Opies made their own repairs to the roof and bathroom that were exposed to the elements in order to prevent further damage. The Opies are not able to hire another contractor to complete the work due to lack of funds.

There is no justification for Sunrise's failure to complete work. After it left the project, Sunrise made further promises to resume the work, which it then failed to honor. Sunrise's conduct in this matter indicates to me that it had no real intention of performing the work.

The Opies testified they have initiated criminal proceedings against Daulph Hooker ("Hooker"). Hooker was arrested in October 2006, and has construction fraud charges pending trial for June 13, 2007.

Sunrise's abandonment of the project is a violation of Board Regulation 18 VAC 50-22-260.B.14. As a consequence of Sunrise's actions, the Opies had to make their own repairs to the roof and bathroom because these items were left exposed to weather conditions due to neglect on Sunrise's part, which added to their distress. Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 4: Board Regulation

In addition to my recommendation in Count 3:

The Opies paid Sunrise \$15,000.00 toward the contract price of \$19,125.00 (approximately 78% of the price). Despite their requests for a refund, Sunrise has not returned any money.

The Opies have incurred additional costs, on top of the money already paid to Sunrise, in pursuit of civil remedies. During the IFF, Julia Opie testified that a loan was processed to get the work done on their house. At this time there is no more money available to complete the work on the house. On September 21, 2006, in the Newport News General District Court, Julia Opie filed a civil suit against Sunrise.

Sunrise's retention of funds for work not performed is a violation of Board Regulation 18 VAC 50-22-260.B.16. Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 5: Board Regulation

On October 26, 2006, the Newport News General District Court awarded a \$15,000.00 judgment to Julia Opie. The Opies testified the judgment has not been satisfied.

As of May 2007, Sunrise has failed to satisfy any portion of the judgment entered against it by a court of law more than six months ago.

Sunrise's failure to satisfy the judgment is a violation of Board Regulation 18 VAC 50-22-260.B.28. Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 6: Board Regulation

Beginning October 24, 2006, the Board's agent sent written certified requests to Sunrise at its address of record, which is 162 Yearly Drive Newport News, Virginia, and to an alternative address. However, the mailings were returned indicating Sunrise was no

longer present at the address of record, and did not claim mail sent to the alternate address. In addition, several telephone messages were left for Sunrise, with no success. The Board's agent made all reasonable attempts to obtain a response to the complaint.

Sunrise's failure to respond to the investigator is a serious violation of the Board's regulations, as it impairs the Board's ability to fully investigate complaints. It is the obligation of a licensee to fully cooperate with the Board when it attempts to investigate complaints. The facts of this case indicate that Sunrise elected not to respond to the investigator's attempts to contact him, and thereby not comply with the Board's regulations, which I find to be an aggravating circumstance.

Sunrise's failure to respond to the investigator is a violation of Board Regulation 18 VAC 50-22-260.B.13. Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 7: Board Regulation

According to the record, Sunrise used an address different from its address of record on its contract with the Opies. Additionally, the address of record no longer appears to be valid. Julia Opie testified that she sent certified mail the address of record. Hooker failed to pick up the certified mail; however when mailing sent to the alternate address.

Sunrise failed to report a change of address within thirty (30) days of such change. As a result and is indicated above, the Board has not been able to contact and locate Sunrise. Without the proper address on record, the Board's efforts to send documentation to Sunrise, such as license renewal and the Notice, may be unsuccessful.

Sunrise actions are in direct violation of Board Regulation 18 VAC 50-22-230.B. Therefore, I recommend a monetary penalty of \$1,000.00 be imposed.

By: _____
Troy Smith, Jr.
Presiding Board Member

Board for Contractors

Date: _____

MONETARY PENALTY TERMS

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN NINETY (90) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN NINETY (90) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

DRAFT

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
COMPLIANCE & INVESTIGATION DIVISION
3600 WEST BROAD STREET
RICHMOND, VA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Contractors
DATE: January 9, 2007 (revised April 3, 2007)

FILE NUMBER: 2007-01259
RESPONDENT: Sunrise Builders & Renovectors, Inc.
LICENSE NUMBER: 2705105519
EXPIRATION: May 31, 2008

SUBMITTED BY: Michael Heaney
APPROVED BY: David Dorner

COMMENTS:

On March 22, 2006, respondent became incorporated in Virginia under the name Sunrise Builders & Renovations Inc.

Complainants filed a criminal complaint against respondent. Respondent was arrested on October 23, 2006, and is currently on trial.

Sunrise Builders & Renovectors, Inc. ("Sunrise") was at all times material to this matter a licensed Class C contractor in Virginia (No. 2705105519).

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On September 22, 2006, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Julia and Earl Opie ("the Opies") regarding Duane Hooker and Sunrise Builders & Renovators, Inc. (Exh. C-1)

On August 4, 2006, Sunrise Builders & Renovators Inc. entered into a written contract, in the amount of \$19,125.00, with the Opies to perform remodeling construction at 17451 John Tyler

Memorial Highway, Charles City, Virginia 23030. The contract was signed by Duane Hooker ("Hooker") on behalf of Sunrise Builders & Renovators Inc. as owner. (Exh. C-2)

On August 4, 2006, the Opies paid Sunrise Builders and Renovations \$7,500.00 by check. On August 16, 2006, the Opies paid Sunrise Builders and Renovations \$7,500.00 by check. Hooker acknowledged receipt of the payments on behalf of Sunrise. (Exh. C-3 and C-4)

On May 15, 2006, Sunrise was issued Class C contractor's license number 2705105519 as a corporation. Daulph D. Hooker, individual tracking number 2706107010, is the Responsible Management and Qualified Individual for license number 2705105519. (Exh. I-1)

1. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

9. Failure of those engaged in residential contracting as defined in this chapter to comply with the terms of a written contract which contains the following minimum requirements:
 - a. When work is to begin and the estimated completion date;
 - d. A "plain-language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance;
 - e. A statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning;
 - f. Disclosure of the cancellation rights of the parties;
 - h. Contractor's name, address, license number, class of license, and classifications or specialty services; and

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001; Volume 22, Issue 8, eff. February 1, 2006

Print Date: February 1, 2006

FACTS:

The contract used by Sunrise in the transaction failed to contain subsections a., d., e., and f. The contract also failed to include the contractor's license information as required by subsection h. (Exh. C-2)

2. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

27. Practicing in a classification, specialty service, or class of license for which the contractor is not licensed.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

The contract indicated a price of \$19,125.00. (Exh. C-2)

Section 54.1-1100 of the Code of Virginia states, “Class C contractors’ perform or manage construction, removal, repair, or improvements when (i) the total value referred to in a single contract or project is over \$1,000 but less than \$7,500 . . .”

3. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

14. Abandonment (defined as the unjustified cessation of work under the contract for a period of 30 days or more).

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

On August 4, 2006, Sunrise commenced work. (Exh. I-2)

Between August 31, 2006, and September 18, 2006, the Opies left daily telephone messages requesting Sunrise to return and complete the contracted work or refund the

\$15,000.00 in payments. Sunrise made promises to return, but never did. (Exh. C-1 and I-2)

The last day Sunrise performed work at the subject property was August 30, 2006. (Exh. I-2)

As of October 24, 2006, Sunrise failed to complete the following contracted work:

- Installation of foundation cinder blocks to level the house.
- Installation of brick molding on exterior windows.
- Installation of roofing shingles on the rear porch room.
- Installation of 2 windows.
- Raising the roof over the addition.
- Installation of vinyl siding.
- Bathroom wall repair.
- Installation of bathroom tile board.
- Installation of 2 interior doors.
- Exterior coil stock wrap on exposed wood.
- Installation of shutters. (Exh. I-2)

The Opies made temporary repairs to the roof and bathroom since they were left exposed to the weather due to Sunrise's failure to complete contracted work. (Exh. I-2)

4. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

16. The retention or misapplication of funds paid, for which work is either not performed or performed only in part.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

In addition to the facts outlined in Count 3:

On September 21, 2006, in Newport News General District Court, Julia Opie filed a civil suit against Sunrise seeking recovery of money paid. (Exh. I-3)

As of October 24, 2006, Sunrise failed to refund money received for work not performed or performed only in part. (Exh. I-2)

5. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

28. Failure to satisfy any judgments.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

On November 9, 2006, in Newport News General District Court, the Opies were awarded a \$15,000.00 judgment against Sunrise. (Exh. I-3)

As of December 29, 2006, Sunrise failed to satisfy the judgment. (Exh. I-2)

6. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

13. Failing to respond to an investigator or providing false, misleading or incomplete information to an investigator seeking information in the investigation of a complaint filed with the board against the contractor.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

On October 24, 2006, Investigator Michael Heaney, the Board's agent, sent written requests, via certified and regular mail, to Sunrise at the address of record of 162 Yearly Drive, Newport News, Virginia 23601, and to an alternative address of 106 Deep Creek

Road, Newport News, Virginia 23606, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the response be received by November 7, 2006. (Exh. I-4)

On November 3, 2006, the certified mail to the address of record of 162 Yearly Drive, Newport News, Virginia 23601, was returned as "Not Deliverable as Addressed, Unable to Forward." On January 4, 2006, the certified mail to the alternative address of 106 Deep Creek Road, Newport News, Virginia 23606, was returned as "Unclaimed" with a notice left for Sunrise on October 25, 2006, and additional attempts of delivery on December 12, 2006, and December 15, 2006. (Exh. I-4)

On November 14, 2006, telephone messages were left for Sunrise and Hooker requesting a response to the complaint. (Exh. I-5)

As of January 8, 2007, Sunrise failed to respond to the investigator seeking information in the investigation of a complaint filed with the Board. (Exh. I-5)

7. Board Regulation

18 VAC 50-22-230. Change of name or address.

- B. Any change of address shall be reported in writing to the board within 30 days of the change. The board shall not be responsible for the licensee's failure to receive notices or correspondence due to the licensee's not having reported a change of address.

Historical Notes:

Derived from VR220-01-2:1 §5.4, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

In addition to the facts outlined in Count 6:

The contract used by Sunrise in the transaction reflected the address 106 Deep Creek Road, Newport News, Virginia 23606. (Exh. C-2)

On January 8, 2007, the address of record for Sunrise is 162 Yearly Drive, Newport News, Virginia 23601. (Exh. I-1)

**IN THE
COMMONWEALTH OF VIRGINIA
BOARD FOR CONTRACTORS**

Re: J S Young Construction Group Inc.

File Number: 2007-00591
License Number: 2705099346

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On April 11, 2007, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to J S Young Construction Group Inc. ("J S Young") to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was returned by the United States Postal Service, marked "Unclaimed."

On May 15, 2007, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: William Driskill ("Driskill"), Complainant; Joseph Haughwout and Jesstina Adelman, Staff Members; and Troy Smith, Jr., Presiding Board Member. Neither J S Young, Respondent, nor anyone on its behalf appeared at the IFF.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the Report of Findings:

In April 2006, J S Young entered into a contract with William Driskill ("Driskill"), in the amount of \$35,000.00, to finish the basement at the subject property in Middleburg, Virginia.

Count 1: Board Regulation

According to the record, Hyun Oh Shin ("Shin") was a member of the firm's Responsible Management at the time J S Young obtained its Class A license. However, in December 2006, the Board's agent was advised Shin had left the company more than a year previously. The Board's agent attempted to get J S Young to provide notification as to the change in corporate officers, but J S Young never provided this information.

It is the responsibility of a licensee to ensure that the Board is aware of who is responsible for the operations of the licensee's business. The firm's Responsible

Management is the primary point of contact for Board correspondence with the business, and is accountable to the Board for the actions of the licensee.

The Board has an obligation to protect the public safety and welfare by ensuring those who operate and manage contracting businesses in Virginia are individuals who meet the requirements for licensure. For example, the Board requires that at the time of application, licensees disclose any felony convictions or recent misdemeanor convictions by its proposed Responsible Management. Providing this information allows the Board to properly evaluate whether issuing a license to practice to the firm would be in the best public interest. A licensee's failure to notify the Board of a change of Responsible Management prevents the Board from performing this crucial evaluation and could result in harm to the public.

JS Young's failure to inform the Board of a change of Responsible Management within ninety (90) days of the change is a violation of Board Regulation 18 VAC 50-22-220.A. Therefore, I recommend a monetary penalty of \$500.00 and remedial education be imposed.

The Board's contracting license class (remedial education) must be successfully completed by a member of Responsible Management within ninety (90) days of the effective date of the order.

Count 2: Board Regulation

The contract used by J S Young in the transaction failed to include subsections a., e., f., and h. (contractor's license information), as required by the regulation. J S Young failed to provide a revised contract.

JS Young's failure to include minimum provisions in the contract is a violation of Board Regulation 18 VAC 50-22-260.B.9. Therefore, I recommend a monetary penalty of \$400.00 and remedial education be imposed.

The Board's contracting license class (remedial education) must be successfully completed by a member of Responsible Management within ninety (90) days of the effective date of the order.

Count 3: Board Regulation

According to the record, J S Young performed demolition work and installed new electrical work and drywall without obtaining the required building permit, in violation of the Uniform Statewide Building Code ("USBC"). (Note: the Report of Findings incorrectly reflects "United States Building Code.")

During the investigation, Gyu Jo ("Jo"), on behalf of JS Young, acknowledged a permit was not pulled because the complainant did not want to cover the costs. However, during the IFF, Driskill stated that Jo stated a permit was not needed for the job.

In certain circumstances, the USBC requires building permits be obtained and inspections be performed. This provides protection and assurance that the work performed by the contractors is quality workmanship and will not be harmful to citizens. By not obtaining required permits, there is no assurance that the work performed by the contractor is in compliance with the USBC. Jo's response implies that compliance with the USBC is voluntary or conditional. It is the responsibility of the contractor to comply with the building code, regardless of who pays for needed permits. If Jo could not work out an arrangement with Driskill to purchase the permit, then J S Young should not have started work. A permit still has not been obtained for said property.

J S Young's failure to comply with the USBC constitutes misconduct in the practice of contracting, which is a violation of Board Regulation 18 VAC 50-22-260.B.6. Therefore, I recommend a monetary penalty of \$1,000.00 and remedial education be imposed.

The Board's contracting license class (remedial education) must be successfully completed by a member of Responsible Management within ninety (90) days of the effective date of the order.

Count 4: Board Regulation

Driskill paid J S Young a total of \$26,250.00 toward the contract price of \$35,000.00 (approximately 75%). According to Driskill, J S Young started work soon after entering into the contract, but work proceeded inconsistently. Eventually, Driskill attempted to negotiate an agreement with J S Young for completion of the work or receiving a refund. In late July 2006, Jo promised Driskill he would return \$20,000.00. However, Jo failed to deliver the refund, and Driskill terminated the contract.

Afterward, Jo made another promise to refund the money, which he then failed to honor. As a result, Driskill filed a civil claim to recover his money. During the investigation, Jo acknowledged he agreed to refund money that he did not spend; however, Driskill did not agree. The record reflects a refund has not been issued.

Jo's stated reason for not returning the money is baseless. Based on repeated broken promises to return money, I believe JS Young had no intention of providing Driskill's refund, and that the promises were merely attempts to delay and frustrate Driskill in his efforts to get his money back. As a result of respondent's actions, Driskill was required to invest additional time and expense by seeking a civil remedy. I find these to be aggravating circumstances, requiring an appropriate sanction.

At this time three companies have bid on the work that still needs to be performed at the Driskill residence. The estimates range from \$50,000 to \$60,000.00.

J S Young's retention of funds received for work not performed, or performed only in part, is a violation of Board Regulation 18 VAC 50-22-260.B.16. Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 5: Board Regulation

In December 2006, in Fairfax County Circuit Court, Driskill was awarded a \$26,250.00 against J S Young. The judgment was based on J S Young's fraudulently inducing Driskill to make payments. Driskill has already filed debtor interrogatories. According to the record the judgment has not been satisfied.

J S Young's failure to satisfy the judgment is a violation of Board Regulation 18 VAC 50-22-260.B.28. Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 6: Board Regulation

In addition to my recommendation in Count 5:

The judgment order against J S Young not only reflects the court's finding of fraud, but also of improper or dishonest conduct on the part of J S Young. I believe this to be further demonstration of respondent's ineptness to hold a license.

J S Young's being found to have committed improper or dishonest conduct is a violation of Board Regulation 18 VAC 50-22-260.B.7. Therefore, I recommend a monetary penalty of \$2,000.00 and license revocation be imposed.

Count 7: Board Regulation

During the investigation, the Board's agent made several attempts to obtain a written response to the allegations made in Driskill's complaint. This included three written requests (one of which was not claimed), and a meeting in person with respondent. Although respondent provided some responses to the complaints during an in-person meeting with the investigator, it did not provide a complete written response as requested by the Board's agent, despite indications that it would do so.

J S Young's failure to respond to the investigator is a serious violation of the Board's regulations, as it impairs the Board's ability to fully investigate complaints. It is the obligation of a licensee to fully cooperate with the Board when it attempts to investigate complaints. The facts of this case indicate that J S Young elected not to provide a written response, and thereby not comply with the Board's regulations, which I find to be an aggravating circumstance.

J S Young's failure to provide a written response to the investigator is a violation of Board Regulation 18 VAC 50-22-260.B.13. Therefore, I recommend a monetary penalty of \$2,000.00 and license revocation be imposed.

By: _____

Mr. Troy Smith, Jr.
Presiding Board Member

Board for Contractors

Date: _____

MONETARY PENALTY TERMS

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN NINETY (90) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN NINETY (90) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
COMPLIANCE & INVESTIGATIONS DIVISION
3600 WEST BROAD STREET
RICHMOND, VA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Contractors
DATE: December 22, 2006 (revised January 16, 2007 and April 9, 2007)

FILE NUMBER: 2007-00591
RESPONDENT: JS Young Construction Group Inc
LICENSE NUMBER: 2705099346
EXPIRATION: October 31, 2007

SUBMITTED BY: Investigator Jennifer Counts
APPROVED BY: Assistant Director John Delucca

COMMENTS:

Companion to File Nos. 2007-00958 and 2007-01303.

JS Young Construction Group Inc ("JS Young") was at all times material to this matter a licensed Class A contractor in Virginia (No. 2705099346).

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On August 14, 2006, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from William Driskill ("Driskill") regarding JS Young. (Exh. C-1)

On April 17, 2006, JS Young entered into a written contract, in the amount of \$35,000.00, with Driskill to finish the basement at 36190 Turkey Roast Road, Middleburg, Virginia 20117. (Exh. C-2)

On April 24, 2006, JS Young began demolition of the basement at the subject property. (Exh. I-3)

1. Board Regulation

18 VAC 50-22-220. Change of responsible management, designated employee, or qualified individual.

- A. Any change in the officers of a corporation, managers of a limited liability company, or officers or directors of an association shall be reported to the board in writing within 90 days of the change.

Historical Notes:

Derived from VR220-01-2:1 §5.3, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: August 1, 2005

FACTS:

On October 12, 2005, JS Young was issued Class A contractor's license number 2705099346. (Exh. I-1) Sun Young Cho ("Cho"), individual tracking number 2706153274, is the Designated Employee and Qualified Individual for license number 2705099346. Hyun Oh Shin ("Shin"), individual tracking number 2706155438, and Gyu Jo ("Jo"), individual tracking number 2706113039, are members of Responsible Management for license number 2705099346. (Exh. I-1 and I-2)

On December 1, 2006, Jo informed Investigator Jennifer Counts, the Board's agent, that Shin left the company over a year ago. Jo stated that Cho is the current owner and "license holder" as he took the contractor's exam. Jo also stated the records were changed with the SCC, but not the Board. (Exh. I-4)

On December 8, 2006, the Board's agent sent an allegation letter and attachments, by email, to Jo at qgsj2005@yahoo.com. The Board's agent requested Jo complete the change of officer form and return it by December 12, 2006. (Exh. I-10)

On April 9, 2007, the licensing records of the Board for Contractors indicated Shin is a member of Responsible Management, as the Director, of license number 2705099346. (Exh. I-1 and I-2)

2. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

9. Failure of those engaged in residential contracting as defined in this chapter to comply with the terms of a written contract which contains the following minimum requirements:
 - a. When work is to begin and the estimated completion date;
 - e. A statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning;
 - f. Disclosure of the cancellation rights of the parties;
 - h. Contractor's name, address, license number, class of license, and classifications or specialty services;

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001; Volume 22, Issue 8, eff. February 1, 2006

Print Date: February 1, 2006

FACTS:

The contract used by JS Young in the transaction failed to contain subsections: a., e., and f. The contract also failed to contain the contractor's license information, as required by subsection h. (Exh. C-2)

On December 8, 2006, the Board's agent sent an allegation letter and attachments, by email, to Jo at ggsj2005@yahoo.com. The Board's agent requested Jo submit a copy of a revised sample contract by December 12, 2006. (Exh. I-10)

As of December 22, 2006, JS Young failed to provide a revised sample contract. (Exh. I-11)

3. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

6. Misconduct in the practice of contracting.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

During the project, Jo and his subs demolished the ceilings and lights, installed new electrical and drywall, painted, and began demolition for the plumbing. (Exh. I-5)

As of October 4, 2006, JS Young failed to obtain a required permit, in violation of Section 108.1 of the United States Building Code. (Exh. W-1)

On December 7, 2006, Jo stated no permit was pulled because the complainant did not want to pay for the costs to pull the permit. (Exh. I-5)

4. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

16. The retention or misapplication of funds paid, for which work is either not performed or performed only in part.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

On April 17, 2006, Driskill paid JS Young \$17,500.00 by check. On June 20, 2006, Driskill paid JS Young \$8,750.00 by check. (Exh. C-4)

Between April 2006 and August 2006, Driskill attempted to negotiate with JS Young regarding completion of the work and/or refunding they money paid. (Exh. C-3 and I-3)

On July 26, 2006, Jo sent Driskill an email stating that the money received was spent as follows: \$3,500.00 for demolition, \$6,300.00 for drywall, \$1,800.00 for wood work, \$3,500.00 for paint, and \$4,100.00 for electrical. The total spent on the project was \$19,200.00. (Exh. C-5)

On July 28, 2006, Jo agreed to have a \$20,000.00 check for Driskill by 2:00 p.m and he would call Driskill to arrange a meeting. (Exh. C-3)

On August 1, 2006, Driskill sent JS Young a letter requesting a \$26,250.00 refund immediately. (Exh. C-6)

On Tuesday, August 1, 2006, Driskill sent Jo an email stating, "On Friday July 28th via telephone you agreed to call me on Monday July 31st by noon to meet me in person before 2:00 PM and give me a certified check for \$20,000.00. I did not receive a call from you on Monday the 31st or a check. As of today you are non responsive again and therefore I have no choice but to terminate you from this job..." (Exh. C-5)

On Wednesday, August 9, 2006, Jo sent Driskill an email stating, "I will call you on friday after I talk to my lawyer and get this matter taking (sic) care of on your basement and give your money back." (Exh. C-5)

On Wednesday, August 16, 2006, Driskill sent Jo an email stating, "You did not call me on Friday and get this matter taken care of as promised below! So as promised I will move forward, I am also now going after damages that have occurred on my personal property." (Exh. C-5)

In September 2006, Driskill filed a civil suit against JS Young. (Exh. C-3)

On December 7, 2006, Jo admitted that he agreed to pay back Driskill any money that he received that he did not spend, but that Driskill did not agree. (Exh. I-5)

As of January 16, 2007, Jo has not refunded the money to Driskill. (Exh. I-14)

5. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

28. Failure to satisfy any judgments.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

On December 15, 2006, in the Fairfax County Circuit Court, Driskill was awarded a \$26,250.00 judgment against JS Young. The judgment was based upon JS Young fraudulently inducing Driskill to make payments. (Exh. C-8)

As of January 16, 2007, JS Young failed to satisfy the judgment and the time for appeal has lapsed. (Exh. I-14)

6. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

7. A finding of improper or dishonest conduct in the practice of contracting by a court of competent jurisdiction.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

In addition to the facts outlined in Count 5:

The judgment indicated JS Young's actions constituted improper and dishonest conduct. (Exh. C-8)

7. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

13. Failing to respond to an investigator or providing false, misleading or incomplete information to an investigator seeking information in the investigation of a complaint filed with the board against the contractor.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

On September 22, 2006, the Board's agent, sent a written request to JS Young at the address of record of 9205 Fox Liar Drive, Burke, Virginia 22015, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the response be received by October 11, 2006. (Exh. I-7)

On October 17, 2006, the Board's agent, sent a written request, via certified mail, to JS Young at the address of record of 9205 Fox Liar Drive, Burke, Virginia 22015, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the response be received by November 1, 2006. (Exh. I-8)

On November 14, 2006, the Springfield Postmaster certified that mail is delivered to JS Young at 9205 Fox Lair Drive, Burke, Virginia 22015. (Exh. I-12)

On November 27, 2006, the certified letter was returned because it was unclaimed by JS Young. (Exh. I-9)

On or about November 30, 2006, after JS Young failed to respond to written requests and phone messages, the Board's agent went to Fox Liar and left a card with Jo's wife. (Exh. I-11)

On December 7, 2006, the Board's agent met with Jo and Cho at Fox Liar. The Board's agent informed Jo that she would provide him with one more opportunity to respond to the allegations and come into compliance with the Board's regulations. (Exh. I-11)

On December 8, 2006, the Board's agent attempted to fax an allegation letter and attachments to no avail. The Board's agent contacted Jo, who asked to have the documents sent to his email at ggsj2005@yahoo.com. The Board's agent sent the documents to Jo. The Board's agent requested the responses and updated information be received by December 12, 2006. (Exh. I-11 and I-10)

As of December 22, 2006, JS Young failed to respond to the investigator seeking information in the investigation of a complaint filed with the board. (Exh. I-11)

**IN THE
COMMONWEALTH OF VIRGINIA
BOARD FOR CONTRACTORS**

Re: J S Young Construction Group Inc.

File Number: 2007-00958
License Number: 2705099346

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On April 11, 2007, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to J S Young Construction Group Inc. ("JS Young") to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was returned by the United States Postal Service, marked "Unclaimed."

On May 15, 2007, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Joseph Haughwout and Jesstina Adelman, Staff Members; and Troy Smith, Jr., Presiding Board Member. Neither J S Young, Respondent, nor anyone on its behalf appeared at the IFF.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the Report of Findings:

In April 2006, JS Young entered into a contract with Ron Zimbrow ("Zimbrow"), in the amount \$155,000.00, to construct an addition at the subject property in Springfield, Virginia.

Count 1: Board Regulation

The contract used by J S Young in the transaction failed to contain subsections e., f., and h. (contractor's license information), as required by the regulation.

J S Young's failure to include minimum provisions in the contract is a violation of Board Regulation 18 VAC 50-22-260.B.9. Therefore, I recommend a monetary penalty of \$300.00 and remedial education be imposed.

The Board's contracting license class (remedial education) must be successfully completed by a member of Responsible Management within ninety (90) days of the effective date of the order.

Count 2: Board Regulation

The contract specified work would begin four (4) months from the date the permit was issued. However, JS Young never obtained the permit and never commenced work on the project, despite Zimbrow's repeated requests that work start. Gyu Jo ("Jo"), on behalf of JS Young, admitted he did not start the project, but asked Zimbrow to give him a few weeks to "get back on his feet" financially.

Even if Zimbrow had consented to Jo's request for "a few weeks," it is clear that by July 2006, Zimbrow felt respondent's few weeks were up. In August 2006, after Zimbrow visited Jo personally, Jo promised to start the project; a promise which he failed to honor. The pattern of respondent's actions, including his repeated excuses and false promises, leads me to conclude Jo had no intention of ever beginning the project. I find this to be egregious conduct, requiring an appropriate sanction.

JS Young's actions are a violation of Board Regulation 18 VAC 50-22-260.B.15. Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 3: Board Regulation

In addition to my recommendation in Count 2:

Zimbrow paid JS Young \$77,500.00 deposit toward the contract price of \$155,000.00, which was half the contract's value. During the investigation, Jo claimed he spent \$9,000.00 for the permits review process. The permits were approved, but Jo did not have the chance to pick them up. Jo acknowledged he spent the rest of the money on other projects.

Given his other conduct in this matter, specifically Jo's false promises to complete work, I have strong reason to doubt the credibility of Jo's explanation. In my view, JS Young received Zimbrow's money fraudulently, and its actions are tantamount to outright larceny.

JS Young's retention or misapplication of funds received for work not performed, or performed only in part, is a violation of Board Regulation 18 VAC 50-22-260.B.16. Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 4: Board Regulation

During the investigation, the Board's agent made several attempts to obtain a written response to the allegations made in Zimbardo's complaint. This included three written requests (one of which was not claimed), and a meeting in person with respondent. Although respondent provided some responses to the complaints during an in-person meeting with the investigator, it did not provide a complete written response as requested by the Board's agent, despite indications that it would do so.

JS Young's failure to respond to the investigator is a serious violation of the Board's regulations, as it impairs the Board's ability to fully investigate complaints. It is the obligation of a licensee to fully cooperate with the Board when it attempts to investigate complaints. The facts of this case indicate that JS Young elected not to provide a written response, and thereby not comply with the Board's regulations, which I find to be an aggravating circumstance.

JS Young's failure to respond to the investigator is a violation of Board Regulation 18 VAC 50-22-260.B.13. Therefore, I recommend a monetary penalty of \$2,000.00 and license revocation be imposed.

By: _____

Troy Smith, Jr.
Presiding Board Member

Board for Contractors

Date: _____

MONETARY PENALTY TERMS

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN NINETY (90) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN NINETY (90) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
COMPLIANCE & INVESTIGATIONS DIVISION
3600 WEST BROAD STREET
RICHMOND, VA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Contractors
DATE: December 22, 2006 (revised April 9, 2007)

FILE NUMBER: 2007-00958
RESPONDENT: JS Young Construction Group Inc
LICENSE NUMBER: 2705099346
EXPIRATION: October 31, 2007

SUBMITTED BY: Investigator Jennifer Counts
APPROVED BY: Assistant Director John Delucca

COMMENTS:

Companion to File Nos. 2007-00591 and 2007-01303.

JS Young Construction Group Inc ("JS Young") was at all times material to this matter a licensed Class A contractor in Virginia (No. 2705099346).

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On September 5, 2006, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received information from the Fairfax County, Division of Consumer Affairs, regarding JS Young. (Exh. C-1)

On April 10, 2006, JS Young entered into a written contract, in the amount of \$155,000.00, with Ron Zimbro ("Zimbro") to build an addition at 5305 Inverchapel Road, Springfield, Virginia 22151. (Exh. C-2)

On October 12, 2005, JS Young was issued Class A contractor's license number 2705099346. Sun Young Cho ("Cho"), individual tracking number 2706153274, is the Designated Employee and Qualified Individual for license number 2705099346. Hyun Oh

Shin ("Shin"), individual tracking number 2706155438, and Gyu Jo ("Jo"), individual tracking number 2706113039, are members of Responsible Management for license number 2705099346. (Exh. I-1)

1. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

9. Failure of those engaged in residential contracting as defined in this chapter to comply with the terms of a written contract which contains the following minimum requirements:
 - e. A statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning;
 - f. Disclosure of the cancellation rights of the parties;
 - h. Contractor's name, address, license number, class of license, and classifications or specialty services

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001; Volume 22, Issue 8, eff. February 1, 2006

Print Date: February 1, 2006

FACTS:

The contract used by JS Young in the transaction failed to contain subsections: e. and f. The contract also failed to contain the contractor's license information, as required by subsection h. (Exh. C-2)

On December 8, 2006, Investigator Jennifer, Counts, the Board's agent, sent an allegation letter and attachments, by email, to Jo at ggsj2005@yahoo.com. The Board's agent requested Jo submit a copy of a revised sample contract by December 12, 2006. (Exh. I-10)

As of December 22, 2006, JS Young failed to provide a revised sample contract. (Exh. I-11)

2. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

15. The intentional and unjustified failure to complete work contracted for and/or to comply with the terms in the contract.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

The contract specified the finish date was "4 months from the permit issue date from the county." (Exh. C-2)

After signing the contract, Zimbrow had continuous contact with Jo, other wise known as JJ. Jo informed Zimbrow that he had not commenced work as he had other things going on. (Exh. I-2)

On July 14, 2006, Zimbrow sent JS Young a letter stating, "Your business practices are disturbing at best. I strongly suggest you contact me NOW to get this project started." (Exh. C-4)

On August 11, 2006, Zimbrow sent Jo of JS Young a letter stating, "You have \$77,500.00 dollars of my money. I want my money back or the project started immediately." (Exh. C-5)

On August 19, 2006, Zimbrow went to Jo's residence. Jo informed Zimbrow that he would come out and begin the project. That was the last time Zimbrow spoke to him. (Exh. I-2) (NOTE: Jo's residence is also the address of record of 9205 Fox Lair Drive, Burke, Virginia.)

On August 29, 2006, Zimbrow sent a letter, via certified mail, to JS Young stating, "The bank records show that you cashed the check on 4/13/06. You have not performed the work and I am demanding a full refund or the completion of the contracted work within fifteen (15) days of the receipt of this letter." (Exh. C-6)

On September 26, 2006, the certified letter was signed for and received. (Exh. C-6)

As of October 27, 2006, JS Young had not obtained a permit for work to be performed at the subject property. (Exh. W-1)

On December 7, 2006, Jo admitted that he never started the project, but asked Zimbrow to give him a few weeks to "get back on his feet" financially. (Exh. I-3)

As of December 18, 2006, JS Young had not completed the work. (Exh. I-4)

3. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

16. The retention or misapplication of funds paid, for which work is either not performed or performed only in part.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

In addition to the facts outlined in Count 2:

On April 10, 2006, Zimbrow paid JS Young \$77,500.00 by check. (Exh. C-3)

On December 7, 2006, Jo admitted that he received \$77,500.00 for the project and spent \$9,000.00 for the permits review process. Jo stated the permits were approved, but he never had the chance to pick them up. The additional money was spent on other projects. (Exh. I-3)

As of December 18, 2006, Jo failed to refund money received for work not performed. (Exh. I-4)

4. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

13. Failing to respond to an investigator or providing false, misleading or incomplete information to an investigator seeking information in the investigation of a complaint filed with the board against the contractor.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

On October 2, 2006, the Board's agent, sent a written request, via certified mail, to JS Young at the address of record of 9205 Fox Liar Drive, Burke, Virginia 22015, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the response be received by October 13, 2006. (Exh. I-5)

On October 3, 2006, the certified letter was signed for and received. (Exh. I-6)

On October 17, 2006, the Board's agent, sent a written request, via certified mail, to JS Young at the address of record of 9205 Fox Liar Drive, Burke, Virginia 22015, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the response be received by November 1, 2006. (Exh. I-7)

On November 14, 2006, the Springfield Postmaster certified that mail is delivered to JS Young at 9205 Fox Lair Drive, Burke, Virginia 22015. (Exh. I-9)

On November 16, 2006, the certified letter was returned to the Board's agent because it was unclaimed by JS Young. (Exh. I-8)

On or about November 30, 2006, after JS Young failed to respond to written requests and phone messages, the Board's agent went to Fox Liar and left a card with Jo's wife. (Exh. I-11)

On December 7, 2006, the Board's agent met with Jo and Cho at Fox Liar. The Board's agent informed Jo that she would provide him with one more opportunity to respond to the allegations and come into compliance with the Board's regulations. (Exh. I-11)

On December 8, 2006, the Board's agent attempted to fax an allegation letter and attachments to no avail. The Board's agent contacted Jo, who asked to have the documents sent to his email at ggsj2005@yahoo.com. The Board's agent sent the documents to Jo. The Board's agent requested the responses and updated information be received by December 12, 2006. (Exh. I-11 and I-10)

As of December 22, 2006, JS Young failed to respond to the investigator seeking information in the investigation of a complaint filed with the board. (Exh. I-11)

**IN THE
COMMONWEALTH OF VIRGINIA
BOARD FOR CONTRACTORS**

Re: J S Young Construction Group Inc.

File Number: 2007-01303
License Number: 2705099346

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On April 11, 2007, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to J S Young Construction Group Inc. ("J S Young") to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was returned by the United States Postal Service, marked "Unclaimed."

On May 15, 2007, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Joseph Haughwout and Jesstina Adelman, Staff Members; and Troy Smith, Jr., Presiding Board Member. Neither J S Young, Respondent, nor anyone on its behalf appeared at the IFF.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the Report of Findings:

In May 2006, JS Young entered into two contracts with Robert King ("King"). The first, in the amount of \$21,802.00, was to remodel the sidewalk, landing, and steps at the subject property in Middleburg, Virginia. The second, in the amount of \$24,500.00, was to install new retaining walls at the subject property.

Count 1: Board Regulation (TWO VIOLATIONS)

The contracts used by JS Young in the transaction failed to include subsections a., e., f., and h. (contractor's license information), as required by the regulation.

JS Young's failure to include minimum provisions in the contract is a violation of Board Regulation 18 VAC 50-22-260.B.9. Therefore, I recommend a monetary penalty of \$400.00 and remedial education for each violation, for a total of \$800.00 and remedial education be imposed.

The Board's contracting license class (remedial education) must be successfully completed by a member of Responsible Management within ninety (90) days of the effective date of the order.

Count 2: Board Regulation

JS Young commenced work in early June 2006, and removed the existing brick sidewalk and completed a portion of the retaining wall. JS Young performed no other work after this. King made several attempts to contact JS Young by telephone and e-mail in an attempt to get the work completed. However, JS Young never returned to complete the project. During the investigation Gyu Jo ("Jo"), on behalf of JS Young, acknowledged he left the project, on the account of the "money situation." After JS Young failed to return, King hired other contractors to complete the project.

Jo's stated justification for not completing the project is insufficient reason for stopping work. It is the obligation of a licensee to honor the contracts into which it enters. If JS Young could not have completed the project, it could have taken reasonable steps to terminate the agreement and bring in another contractor to complete work.

JS Young's abandonment of work is a violation of Board Regulation 18 VAC 50-22-260.B.14. Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 3: Board Regulation

During the investigation, the Board's agent made several attempts to obtain a written response to the allegations made in King's complaint. This included three written requests (one of which was not claimed), and a meeting in person with respondent. Although respondent provided some responses to the complaints during an in-person meeting with the investigator, it did not provide a complete written response as requested by the Board's agent, despite indications that it would do so.

JS Young's failure to respond to the investigator is a serious violation of the Board's regulations, as it impairs the Board's ability to fully investigate complaints. It is the obligation of a licensee to fully cooperate with the Board when it attempts to investigate complaints. The facts of this case indicate that JS Young elected not to provide a written response, and thereby not comply with the Board's regulations, which I find to be an aggravating circumstance.

JS Young's failure to respond to the investigator is a violation of Board Regulation 18 VAC 50-22-260.B.13. Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

By: _____

Troy Smith, Jr.
Presiding Board Member

Board for Contractors

Date: _____

MONETARY PENALTY TERMS

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN NINETY (90) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN NINETY (90) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
COMPLIANCE & INVESTIGATIONS DIVISION
3600 WEST BROAD STREET
RICHMOND, VA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Contractors
DATE: December 22, 2006 (revised April 9, 2007)

FILE NUMBER: 2007-01303
RESPONDENT: JS Young Construction Group Inc
LICENSE NUMBER: 2705099346
EXPIRATION: October 31, 2007

SUBMITTED BY: Investigator Jennifer Counts
APPROVED BY: Assistant Director John Delucca

COMMENTS:

Companion to File Nos. 2007-00591 and 2007-00958.

JS Young Construction Group Inc ("JS Young") was at all times material to this matter a licensed Class A contractor in Virginia (No. 2705099346).

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On September 26, 2006, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Robert King ("King") regarding JS Young. (Exh. C-1)

On May 31, 2006, JS Young entered into a written contract, in the amount of \$21,802.00, with King to remodel the sidewalk, landing, and steps at 23099 Pantherskin Lane, Middleburg, Virginia 20117 ("the subject property"). (Exh. C-2)

On May 31, 2006, JS Young entered into a second written contract, in the amount of \$24,500.00, with King to install new retaining walls at the subject property. (Exh. C-3)

On October 12, 2005, JS Young was issued Class A contractor's license number 2705099346. Sun Young Cho ("Cho"), individual tracking number 2706153274, is the Designated Employee and Qualified Individual for license number 2705099346. Hyun Oh Shin ("Shin"), individual tracking number 2706155438, and Gyu Jo ("Jo"), individual tracking number 2706113039, are members of Responsible Management for license number 2705099346. (Exh. I-1)

1. Board Regulation (TWO VIOLATIONS)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

9. Failure of those engaged in residential contracting as defined in this chapter to comply with the terms of a written contract which contains the following minimum requirements:
 - a. When work is to begin and the estimated completion date;
 - e. A statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning;
 - f. Disclosure of the cancellation rights of the parties;
 - h. Contractor's name, address, license number, class of license, and classifications or specialty services

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001; Volume 22, Issue 8, eff. February 1, 2006

Print Date: February 1, 2006

FACTS:

The contracts used by JS Young in the transaction failed to contain subsections: a., e., and f. The contracts also failed to contain the contractor's license information, as required by subsection h. (Exh. C-2 and C-3)

On December 8, 2006, Investigator Jennifer Counts, the Board's agent, sent an allegation letter and attachments, by email, to Jo at ggsj2005@yahoo.com. The Board's agent requested Jo submit a copy of a revised sample contract by December 12, 2006. (Exh. I-7)

As of December 22, 2006, JS Young failed to provide a revised sample contract. (Exh. I-8)

2. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

14. Abandonment (defined as the unjustified cessation of work under the contract for a period of 30 days or more).

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

A few days after May 31, 2006, JS Young commenced work. (Exh. I-2 and I-3) As of June 10, 2006, JS Young had completed building a portion of the retaining wall and removed the existing brick sidewalk. (Exh. I-3)

On August 15, 2006, King sent a letter, via certified mail, to JS Young at the address of record of 9205 Fox Lair Drive, Burke, Virginia. In the letter, King stated, "I expect you to contact me by 22 Aug 06 @ 540-687-5833 to discuss the entire completion of your signed contracts with me. Should I not hear from you, my lawyer will initiate criminal procedures." The certified letter was subsequently returned to King because it was unclaimed by JS Young. (Exh. C-6)

On September 5, 2006, Masonry Specialist LLC provided King with a written proposal, in the amount of \$15,000.00, to install a brick porch and walkway, install other brick porch and landing at secondary entrance and walkway at front of home, add brick step to back door, and additional brick work at the subject property. (Exh. C-7)

On December 7, 2006, Jo stated that he left the project in mid-July because of "the money situation." (Exh. I-2)

Prior to December 18, 2006, King made several attempts to contact Jo via telephone, mail, and email to no avail. King eventually hired other contractors to complete the project. (Exh. I-3)

The last time JS Young performed work at the subject property was June 10, 2006. (Exh. I-3)

3. Board Regulation

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

13. Failing to respond to an investigator or providing false, misleading or incomplete information to an investigator seeking information in the investigation of a complaint filed with the board against the contractor.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

On November 14, 2006, the Springfield Postmaster certified that mail is delivered to JS Young at 9205 Fox Lair Drive, Burke, Virginia 22015. (Exh. I-4)

On November 28, 2006, the Board's agent sent a written request, via certified mail, to JS Young at the address of record of 9205 Fox Liar Drive, Burke, Virginia 22015, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the response be received by December 6, 2006. (Exh. I-5)

On November 30, 2006, the certified letter was signed for and received. (Exh. I-6)

On or about November 30, 2006, after JS Young failed to respond to written requests and phone messages, the Board's agent went to Fox Liar and left a card with Jo's wife. (Exh. I-8)

On December 7, 2006, the Board's agent met with Jo and Cho at Fox Liar. The Board's agent informed Jo that she would provide him with one more opportunity to respond to the allegations and come into compliance with the Board's regulations. (Exh. I-8)

On December 8, 2006, the Board's agent attempted to fax an allegation letter and attachments to no avail. The Board's agent contacted Jo, who asked to have the documents sent to his email at ggsj2005@yahoo.com. The Board's agent sent the documents to Jo. The Board's agent requested the responses and updated information be received by December 12, 2006. (Exh. I-7 and I-8)

As of December 22, 2006, JS Young failed to respond to the investigator seeking information in the investigation of a complaint filed with the board. (Exh. I-8)

**IN THE
COMMONWEALTH OF VIRGINIA
BOARD FOR CONTRACTORS**

Re: Hearth & Home Technologies, Inc.
 t/a Fireside Hearth & Home

File Number: 2006-01423
License Number: 2705061923

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On November 22, 2006, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Hearth & Home Technologies, Inc. ("Hearth & Home") to the address of record which is 9850 Business Boulevard Warrenton, Virginia 20187. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

On November 22, 2006, the Notice of Informal Fact-Finding Conference ("Notice") was also mailed, via certified mail, to an alternate address for Hearth & Home at 20802 Kensington Boulevard Lakeville, Minnesota 55044. The certified mail was signed for and received.

On January 19, 2007, the Notice to Continue the Informal Fact-Finding Conference was mailed, via certified mail, to Hearth & Home to the address of record. The certified mail was signed for and received.

On April 17, 2007, the Notice to Reschedule the Informal Fact-Finding Conference was mailed, via certified mail, to Hearth & Home to the address of record. The certified mail was signed for and received.

On April 17, 2007, the Notice to Reschedule the Informal Fact-Finding Conference was also mailed, via certified mail, to Hearth & Home to an alternate address for Hearth & Home at 20802 Kensington Boulevard Lakeville, Minnesota 55044. The certified mail was signed for and received.

On May 15, 2007, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation ("DPOR").

The following individuals participated at the IFF: Board for Contractors ("the Board"), Complainant; Joseph Haughwout Jr. and Jesstina Adelman, Staff Members; and Troy Smith Jr., Presiding Board Member. Neither Hearth & Home Respondent, nor anyone on its behalf appeared at the IFF.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the Report of Findings:

In September 2005, the Compliance & Investigations Division of the DPOR received information from Cynthia McLean ("McLean"), Office Manager for the Board, regarding Hearth & Home. McLean had tried to contract

Count 1: Board Regulation

As of September 2005 Darrel Lindsay ("Lindsay") was removed as the Designated Employee for Hearth & Home. This change of Designated Employee was not reported to the Boards within 45 days of change. It still has not been reported 18 months later.

According to the Board's records, Hearth & Home currently has no Designated Employee. As such, the license is essentially invalid until Hearth & Home has an individual take the exam and become the Designated Employee for Hearth & Home. Without a proper Designated Employee, the Respondent does not meet the requirements for licensure.

Hearth & Home's actions constitute a violation of Board Regulation 18 VAC 50-22-220.C. Therefore, I recommend a monetary penalty of \$500.00 and remedial education be imposed. License suspension will be imposed until Hearth & Home has come into full compliance with the Board's regulations and must provide a Designated Employee for the BLD and GFC contractor classifications.

The Board's contracting license class (remedial education) must be successfully completed by a member of Responsible Management within ninety (90) days of the effective date of the order.

By: _____

Troy Smith, Jr.
Presiding Board Member

Board for Contractors

Date: _____

MONETARY PENALTY TERMS

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN NINETY (90) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN NINETY (90) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

DRAFT

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
COMPLIANCE & INVESTIGATIONS DIVISION
3600 WEST BROAD STREET
RICHMOND, VA 23230-4917

AMENDED REPORT OF FINDINGS

BOARD: Board for Contractors
DATE: April 20, 2006 (revised November 2, 2006 and November 15, 2006)

FILE NUMBER: 2006-01423
RESPONDENT: Hearth & Home Technologies, Inc., t/a Fireside Hearth & Home
LICENSE NUMBER: 2705061923
EXPIRATION: March 31, 2007

SUBMITTED BY: Ileana Thomas
APPROVED BY: Bonnie Rhea Adams

COMMENTS:

None

Hearth & Home Technologies, Inc. ("Hearth & Home"), t/a Fireside Hearth & Home, was at all times material to this matter a licensed Class A contractor in Virginia (No. 2705061923)

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On September 23, 2005, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received information from Cynthia J. Chisholm McLean ("McLean"), Office Manager for the Board for Contractors ("the Board"), regarding Hearth & Home. (Exh. C-1)

On March 22, 2001, Hearth & Home was issued Class A contractor's license number 2705061923 as a corporation. Darrel Lindsay ("Lindsay"), individual tracking number

2706112265, was the Designated Employee ("DE") and Qualified Individual ("QI") for the building contractor ("BLD") classification for license number 2705061923. James R Grim ("Grim"), individual tracking number 2706048553, was the QI for the HVAC contractor ("HVA") classification and gas fitting contracting ("GFC") specialty service for license number 2705061923. (Exh. I-1)

In a letter dated March 3, 2005, Lindsay notified the Board that he would like his name to be removed from the Class A contractor's license for Hearth & Home. He stated that his last day with them was March 2, 2005. (Exh. W-1)

In a letter dated March 4, 2005, McLean requested that Hearth & Home remit a change of DE application and a change of QI application to the Board or return the Class A contractor's license. (Exh. C-2)

On December 29, 2005, Legal Analyst Ileana Thomas, the Board's agent, sent a written request to Hearth & Home at the address of record of 20802 Kensington Blvd, Lakeville, MN 55044 and the individual address of record of 19415 Springfield Circle, Jeffersonton, VA 22724, requesting Hearth & Home take corrective action for failure to report a change of DE and failure to report a change of QI. The board's agent requested a response be received by January 26, 2006. (Exh. I-2)

On January 24, 2006, the Board's agent sent a written request, via certified mail, to Hearth & Home at the address of record of 20802 Kensington Blvd, Lakeville, MN 55044 and the individual address of record of 19415 Springfield Circle, Jeffersonton, VA 22724, requesting Hearth & Home take corrective action for failure to report a change of DE and failure to report a change of QI. The board's agent requested the response be received by February 7, 2006. (Exh. I-3) The certified mailing sent to the Lakeville, MN address was signed for by Kari Moetsch. The certified mailing sent to the Jeffersonton, VA address was signed for by Patricia Boido. (Exh. I-4)

On March 9, 2006, Laurence Boido ("Boido"), Vice President of Hearth & Home, left a message on the Board's agent's voicemail. (Exh. I-6)

On March 10, 2006, the Board's agent returned the call to Boido at (703) 906-9415 and left a message. (Exh. I-6)

On April 18, 2006, the Board's agent attempted to contact Boido again at (703) 906-9415 and left a message. (Exh. I-6)

On August 7, 2006, the Board's agent contacted the corporate office at (800) 787-0633 and spoke with Mike Spidel ("Spidel"), General Manager for Hearth & Home. The Board's agent explained to Spidel that her attempts to contact Boido were unsuccessful. The Board's agent explained that Hearth & home needed to take corrective action. (Exh. I-6)

On August 31, 2006, Boido contacted the Board's agent and explained that he thought the matters had been resolved. (Exh. I-6)

On August 31, 2006, after a telephone conversation with Boido, the Board's agent sent a facsimile to (540) 347-9636. Attached to the facsimile were the applications to change the DE and QI. (Exh. I-5)

On September 26, 2006, the Board's agent called Boido at (703) 906-9415 to check on the status of the applications. Boido told the Board's agent that the paperwork was submitted to the corporate office and he thought they might have sent it back by now. (Exh. I-6)

1. Board Regulation

18 VAC 50-22-220. Change of responsible management, designated employee, or qualified individual.

- B. Any change of designated employee shall be reported on a form provided by the board within 90 days of the change. The new designated employee for a Class B licensee shall meet the requirements of 18 VAC 50-22-50 B. The new designated employee for a Class A licensee shall meet the requirements of 18 VAC 50-22-60 B.

Historical Notes:

Derived from VR220-01-2:1 §5.3, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

FACTS:

On September 23, 2005, Lindsay was removed as the Designated Employee for license number 2705061923. (Exh I-1)

As of October 5, 2006, the licensing record of the Board indicates that there is not a Designated Employee for license number 2705061923. (Exh I-1)

2. Board Regulation

18 VAC 50-22-220. Change of responsible management, designated employee, or qualified individual.

- C. Any change of qualified individual shall be reported on a form provided by the board within 45 days of the change. The new qualified individual for a Class C licensee shall meet the requirements of 18 VAC 50-22-40 B. The new qualified individual for a Class B licensee shall meet the requirements of 18 VAC 50-22-50 C. The new qualified individual for a Class A licensee shall meet the requirements of 18 VAC 50-22-60 C.

Historical Notes:

Derived from VR220-01-2:1 §5.3, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

FACTS:

In addition to the facts outlined in Count 1:

On September 23, 2005, Lindsay was removed as the Qualified Individual for the BLD classification for license number 2705061923. (Exh I-1)

On April 6, 2006, Matthew W. Douglas ("Douglas") individual tracking number 2706102191, replaced Grim as the QI for the HVA classification for license number 2705061923. (Exh. I-1)

On August 31, 2006, Boido stated that Grim passed away at the beginning of the year, which is why Douglas was put in his place. Boido was informed that he needed to replace Grim as QI for the GFC specialty service. (Exh. I-5, I-6)

On August 31, 2006, Grim was removed as QI for GFC specialty service for license number 2705061923. (Exh. I-1)

As of October 5, 2006, the licensing record of the Board indicates that there is not a Qualified Individual for the BLD classification or GFC specialty service for license number 2705061923. (Exh I-1)